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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE
THE PATENT TRIAL AND APPEAL BOARD

Ex parte DAVID M. MANYAK, RENEE A. ZEPPETELLO,
HAO CHEN, ARTHUR D. WEISSMAN, and
GARRY L. LANG

Appeal 2010-006831
Application 09/558,232
Technology Center 2100

Before JOSEPH L. DIXON, CAROLYN D. THOMAS, and
CARL W. WHITEHEAD JR., *Administrative Patent Judges.*

DIXON, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134 from a rejection of claims 1-3, 10, 14-23, 27, 28, 33-43, and 142. We have jurisdiction under 35 U.S.C. § 6(b). The other claims are either canceled or withdrawn from consideration. (Response to restriction requirement, filed February 19, 2003; Paper, mailed August 17, 2009 in response to Remand from the Board, mailed July 24, 2009).

We affirm.

The claims are directed to receptor selectively mapping. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A computer system comprising:

a first database containing, records corresponding to a plurality of chemical compounds and records corresponding to biological information related to effects of such chemical compounds on biological systems;

a second database containing records corresponding to a plurality of molecular targets;

a third database containing records corresponding to screening results from *in vitro* assays measuring interactions between each of a plurality of compounds in the first database and each of a plurality of molecular targets in the second database, the results including information on the effect that a compound selected from the first database has on the interaction between a reference compound known to interact with a selected molecular target from the second database and said selected molecular target;

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a user interface allowing a user to provide the system with information about a new chemical compound; and

a query script that extracts information from the three databases that is relevant to the predictability of the potential use of the new compound as a drug.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

John N. Weinstein et al., "An Information-Intensive Approach to the Molecular Pharmacology of Cancer," 275 Science, Jan. 17, 1997, at 343-349.

Elliott M. Antman et al., "A Comparison of Results of Meta-analyses of Randomized Control Trials and Recommendations of Clinical Experts: Treatments for Myocardial Infarction," 268(2) JAMA, July 8, 1992, at 240-248.

Hiroyuki Ogata et al., "KEGG: Kyoto Encyclopedia of Genes and Genomes," 27(1) Nucleic Acids Research, at 29-34 (1999).

REJECTIONS

Claims 1-3, 10, 14-23, 27, 28, 33-43, and 142 stand rejected under 35 U.S.C §103(a) as being unpatentable over Weinstein and Antman.¹

¹ Claims 59-64, 67, 68, 70-76, 78-105, 107, 108, 110, 120, 121, 124-129, 132, 139-141, 144, and 145 rejected under 35 U.S.C §103(a) as being unpatentable over Weinstein and Antman and claims 77, 122, and 123 rejected under 35 U.S.C §103(a) as being unpatentable over Weinstein, Antman, and Ogata are not appealed and have been canceled.

OPINION

ANALYSIS

Appellants do not set forth separate arguments for patentability of any of the appealed claims. Therefore, we select independent claim 1 as the representative claim and all the claims will stand or fall with independent claim 1. (App. Br. 9).

Appellants contend that the Weinstein reference does not disclose the use of a biological activity database in the manner specified in claims 1, 33, 35, 37, and 142. (App. Br. 9). Appellants further contend that the Antman reference does not disclose the use of a biological activity database in the manner specified in claims 1, 33, 35, 37, and 142. (App. Br. 9-10).

Appellants contend that there is no suggestion that the clinical trial data could be placed into a relational database that could be used in conjunction with other relational databases containing molecular target information and screening results from in vitro assays. (App. Br. 10). Appellants additionally contend that the manual collection and analysis of data in the Antman reference and the automated analysis of the Weinstein reference are not properly combinable. (App. Br. 10). Appellants further contend that the Weinstein reference also fails to disclose the limitations of data describing the result of a three (3) compound interaction (molecular target/a reference compound/candidate drug compound).

The Examiner addresses Appellants' arguments in the statement of the rejection (Ans. 3-11) and in the responsive arguments (Ans. 11-15). The Examiner finds that Appellants' arguments are directed to limitations which are not expressly found in the language of representative independent claim 1 and that Appellants are arguing the references individually rather than

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what the combination would have suggested to one of ordinary skill in the art. (*Id.*) We agree with the Examiner's findings and note that Appellants did not file a reply brief to specifically address the Examiner's additional clarification of the new grounds of rejection in the final rejection. Therefore, we accept the Examiner's findings. Therefore, Appellants have not shown error in the Examiner's showing of obviousness.

CONCLUSIONS OF LAW

The Examiner did not err in rejecting representative independent claim 1.

DECISION

For the above reasons, the Examiner's rejection of claims 1-3, 10, 14-23, 27, 28, 33-43, and 142 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2009).

AFFIRMED

peb